

DEPARTMENT OF SOCIAL SERVICES

744 P Street, MS 10-90, Sacramento, California 95814



**California Department of Social Services
Continuing Care Advisory Committee
Meeting Minutes
May 10, 2007**

The Continuing Care Advisory Committee (Committee) met at Forest Hill Manor, 551 Gibson Avenue, Pacific Grove, California. The meeting convened at 10:00 a.m. Members present were: Charles Lamb, Marilyn Oliver, John Breaux, Mary Beth Tompane, and Bernard Werth. Absent members were: Barbara Hood, John Patton, and John Sonneborn. Staff attending from the Continuing Care Contracts Branch were: John Rodriguez, Linda Smith, Annette Kite, Ahmad German, and Rea Osborne. Attending from the public were: Fred Anderson, Adnan Hasan, Anne Burns Johnson, Charles Cable, Beverly Power, Norma Brambilla, Yvonne Wood, Paul Jepson, Barbara Reid, Eric Dowdy, Gerry Goff, George Hays, Dave Ferguson, and Jeff Glaze.

GENERAL ADMINISTRATIVE DUTIES

Mr. Lamb acted as Committee Chair in Mr. Stringer's absence. He called the meeting to order at 10:05 a.m. He welcomed everyone to the quarterly meeting.

Approval/Correction of February 13, 2007 Advisory Committee Minutes

Mr. Lamb asked the Committee members if there were any additions, deletions, or corrections to the minutes. There were no changes made to the minutes of February 13, 2007 and they were approved as written.

OLD BUSINESS

Annual Discussion with Committee Members

Mr. Rodriguez reported that he had the opportunity to meet individually with most of the Committee members as he indicated he would do at the last meeting. In these meetings, discussions focused on the effectiveness of the Committee, improvements that could be made to the Committee, the structure of the Committee, and funding issues. He said a common topic was the frequency of the meetings. The consensus was that meetings may be more productive if the Committee met three times a year instead of quarterly. The result may be longer agendas and all day meetings, but it was generally felt that this would be a better use of Committee members and staff members' time. If an urgent matter arose, all members stated that they would be willing to come together on a moment's notice to discuss the matter via conference call.

Mr. Werth stated his opinion is that the Branch is under funded and understaffed especially since workload has tremendously increased over the past few years. He asked the other Committee members to consider what they could do to assist. Mr. Rodriguez stated he has been approached on this subject and had numerous conversations with residents, other provider associations, association attorneys and everyone agrees on this subject. Funding is not the issue because the Branch is separately funded through the provider fee fund; securing more positions for the Branch is the issue. Mr. Rodriguez stated that the Department is currently in the Budget Change Proposal (BCP) process right now and the Branch is requesting additional positions. He stated that the BCP will be presented to senior executives for approval and then it will also need to be approved by the California Health and Human Services Agency, and the Department of Finance.

Mr. Rodriguez deferred Mr. Werth's question of what the Committee members could do to remedy the situation to the Chair. Mr. Lamb stated that he believed that the Advisory Committee should request an evaluation of the staffing needs and how the Committee could assist in achieving these objectives. Mr. Rodriguez advised the Committee members that Mr. Stringer also expressed an interest in doing something formally to assist in the staffing efforts, and he urges the Committee to work together on this issue. Mr. Lamb stated that he would contact Mr. Stringer to ensure that they provide something for the record on behalf of the Committee. Ms. Tompane moved that Mr. Lamb be responsible for contacting Mr. Stringer to facilitate a communication to the appropriate entities asking how the Committee can assist the Department in this effort. The motion was seconded and approved.

Mr. Lamb posed the question, "How do we accommodate the maximized cash flow and still meet the licensing requirements when they want you to finish the facility expansion?" Ms. Smith stated that she and Mr. Rodriguez have been meeting with staff in the Licensing District Offices to discuss local issues and recently had discussed that specific issue in hopes of expediting Licensing's approval. Mr. Rodriguez stated that when he meets with Licensing staff in the future, he will like to include providers in those meetings as well so that standardization could be developed to avoid those issues. These issues deal with construction projects, specifically expansion projects, and how to get the maximum cash flow to be financially sound versus completing the construction to get a certificate of occupancy. The problem exists between two separate offices within the Community Care Licensing Division. Mr. Lamb stated that he wanted to go on record in support of the initiative being generated by CCCB to coordinate between the two offices.

Mr. Breaux expressed concern regarding the lack of replacement of members on the Committee whose terms have expired. It was noted that all members' terms have long expired with the exception of the two appointed by the Senate Rules Committee, Ms. Tompane and Mr. Sonneborn. The Committee agreed it is the appropriate time to contact the appointing powers urging new appointments to relieve expired members of their obligation to serve on the Committee. Mr. Lamb volunteered to coordinate with Mr. Stringer to communicate with the appointing powers on behalf of the Committee requesting appointments for members whose terms have expired and vacant appointments.

NEW BUSINESS

Reviewing the Financial/Managerial Condition of CCRCs and Providers Who Operate Them: Forest Hill Manor

Ms. Beverly Power, Executive Director of Forest Hill Manor, gave a presentation regarding the community to the Committee. She stated that the main manor building was built in 1924 using horses and outside scaffolding with poured concrete and the walls were twelve inches thick. In 1954 the hotel was falling on hard times and a group of Methodist laymen got together and they decided to buy the grand building and make it into a retirement community. Forest Hill Manor celebrated their 50th anniversary three years ago. In the late 1980s their Board considered expanding because they did not have an adequate skilled nursing facility (SNF) on campus and they were forced to contract out for SNF services. About 14 years ago the Board obtained a permit build a SNF on campus. Shortly after, Lakepark, their sister facility in Oakland suffered extensive damage in an earthquake, so California Nevada Methodist Homes' (CNMH) capitol reserve was dedicated to repairing Lakepark in Oakland. While the expansion at Forest Hill Manor was put on hold, they kept the permit open with the City of Pacific Grove (City) by remodeling the apartments inside.

Ten years later, their Board of Directors obtained permission from City Council to build a building in

the back which would include Assisted Living Units, a SNF and some independent units. There were some issues regarding the height of the proposed buildings which resulted in access only on one level. The new cottages are finished, ready for occupancy, all sold, and residents have sold their homes and are ready to move in but they have yet to receive a certificate of occupancy.

The Planning Commission has refused to issue the certificate because the original permit did not indicate the expansion would be a phased project. The renovation of the mail building, new independent units and the SNF and AL will not be completed until April 2008, so the Planning Commission won't issue the certificate of occupancy until the entire project is completed, or until the permit is re-filed as a phased project. CNMH has hired a land-use attorney, Hansen Bridgett, who has contacted the City Attorney but the City Attorney has not yet responded. A press release was issued to the local papers telling about the financial risk that the City is putting CNMH in by not allowing them the occupancy permit. Now there is a threat of a lawsuit, or some litigation.

Mr. Lamb asked the Committee members if there were any action items they would like to propose at this time. Mr. Breaux stated that in his opinion there is nothing the Committee can do to improve communications and working with local governments/cities.

Furnishing Information to Consumers of Continuing Care:
Culture Change Coalition

The presenter on this subject could not attend this meeting, so this item was deferred until the next meeting.

Improving the Continuing Care Statutes and Facility Management:
Private Duty Aides

Mr. Rodriguez stated that the use of private duty aides in independent living units has recently attracted attention with Senior Care Licensing staff. Senior Care is starting to look at the issue in terms of what the law allows, and CCCB is starting to look at what the reality of it is. There are a number of private duty aides in a number of facilities, and this is probably not in line with what the licensing office thinks it should be. The CCCB does not have good quantitative data on private duty aides. CCCB is not required to keep information on which facilities or which providers utilize private duty aides; to what degree they are used; how they are procured; how many there are, etc. Mr. Rodriguez stated that the Department does not want to rush out and tell residents and providers that they cannot have a private duty aide. At this point, the CCCB needs to develop a survey or ask an association to help us put one together to determine the depth of the issue.

Mr. Werth stated that Channing House was fined \$25,000 for allowing private duty aides at their facility. He stated that at San Francisco Towers the rule is that private duty aides must be hired through an agency, cleared by the police, and cleared by health care, etc.

Mr. Lamb stated that at Air Force Village West they have two types of private duty aides. The first is called residential support services where AFVW conducts background checks and hires private duty aides. Secondly, whenever AFVW discovers that someone has hired a private duty aide directly, AFVW insists on a contract from them and periodic reports. The provider is responsible for everything that happens on the campus.

The Committee agreed that the Branch should develop a survey form and send it to the Committee members for comment. After receiving resident's and provider's input, the Branch could then send it out.

Legislation
AB 1022

Mr. Rodriguez stated that the Department is unable to comment on this bill because the analysis has not yet been signed off by the Agency and the Governor's Office. Mr. Lamb stated that AB 1022 is a two-year bill and it is still active. He stated that everyone associated with it understands that there will be a lot of amendments. This bill may be another attempt to deal with private duty aide issues, security aspects, and what needs to be licensed.

SB 489

Mr. Dowdy reported that SB 489 was heard in the Senate Appropriations Committee on April 15, 2007 and it is on the consent calendar for May 15, 2007. Mr. Breaux stated that SB 489 was introduced mainly because of the closure of one facility. This legislation was proposed to define the term "closure" and relocation of residents in that event. The bill sets forth specific processes and time limitations providers must follow when a facility is closed, or even a part of a facility for expansions, etc, and regulates compensation to residents. He stated that it does not exclude facility closures when fire, flood or earthquakes forces a facility to close.

Ms. Burns Johnson stated that she encouraged Committee members to give their input on proposed legislation. She said that Aging Services of California (ASC) asked residents and resident associations for input on AB 1022, stated their intention and what they were doing, but the same courtesy was not extended to ASC regarding SB 489. She expressed concern that collaboration or a mutual way of solving problems cannot be achieved if courtesy is not extended to all parties.

Mr. Rodriguez stated that from the Department's perspective, it is not so important that we have a consensus of this Committee, but that proposed legislation should be brought to the Committee. If Committee members have a position on a bill, they should state it, and the Department will take it under advisement. He does not expect to go around the table with Committee members and have a consensus -- that is what the legislative process is for. If a Committee member has a position and they want to comment on their position, CCCB and other members want to hear it.

Mr. Lamb stated that while there is not a consensus on SB 489 or AB 1022 the Committee's intent is to try to smooth out the differences between residents and providers. Ms. Tompane stated that the Committee's purpose is to try and facilitate good legislation which will benefit the industry and the residents.

NEW MATTERS UPON REQUEST BY PUBLIC ATTENDEES

Mr. Lamb stated that there are two reports out that might be of interest to other Committee members. American Association of Homes and Services for the Aging and Ziegler, in a combined effort, has published AZ 100. It analyzes the nation's 100 largest not-for-profit senior living providers and is available on AAHSA's website. Genworth Financial conducted a survey on care costs nationwide. It includes costs for skilled care, assisted living and in-home care. It is also available on AAHSA's website. Mr. Dowdy agreed to send it out to interested members.

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES BRIEFING

Report on Status of Applications

Ms. Kite reported on the status of applications (attached).

ADJOURNMENT

There being no further business, the Committee concluded the open session of the meeting.

CLOSED SESSION

The Committee continued this meeting in closed session, as provided by Government Code Section 1112(c) (2). The Department presented a financial review of a provider during the closed session. It is the intention of the Committee to review all continuing care providers on an ongoing basis. Designation as a provider to be discussed during the course of these proceedings is not an indication of the financial strength or weakness of that provider.